

In the Matter of License No. 150264 and all other Seaman Documents
Issued to: JAMES EDGAR WALDRON

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

1005

JAMES EDGAR WALDRON

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 7 November 1956, an Examiner of the United States Coast Guard at New York, New York, revoked Appellant's seaman documents upon finding him guilty of misconduct. Four specifications allege that while serving as an Assistant Engineer on board the American SS MacALESTER VICTORY under authority of the document above described, on or about 20 June 1956, Appellant failed to join his ship; on or about 22 September 1956, he assaulted fireman-watertender Huller with a dangerous weapon, to wit: a knife; on the latter date, Appellant wrongfully left the engine room unattended while a sea watch was set at anchor; and on the following morning, he wrongfully failed to stand his watch due to intoxication.

At the hearing, Appellant was represented by counsel of his own choice. He entered a plea of not guilty to each of the four specifications.

After considering all the evidence including the testimony of Appellant and Huller, the Examiner announced the decision in which he concluded that the charge and four specifications had been proved. An order was entered revoking all documents issued to Appellant.

The decision was served on 8 November and notice of appeal was timely filed on 16 November 1956. Nothing further has been received from Appellant or his counsel to supplement the notice of appeal.

FINDINGS OF FACT

On the following pertinent dates, Appellant was serving as an Assistant Engineer on the American SS MacALESTER VICTORY and acting under authority of his License No. 150264 while the ship was on a foreign voyage.

On 20 June 1956, appellant was serving as Second Assistant Engineer on the MacALESTER VICTORY while the ship was at New Orleans, Louisiana. At 0900 on this date, the time posted on the

ship's sailing board was changed from 1200 to 1700 on 20 June. At approximately 1030, Appellant was misinformed by one of the engineering officers that the sailing time had been postponed to 0500 on 21 June and that the sailing board would be changed shortly thereafter. Appellant left the ship and went home without realizing that no such change in the sailing time was subsequently posted. The ship got underway for Mobile at 1810 on 20 June. Appellant missed the ship because he did not return to the dock until 2200 on this date. Appellant rejoined the vessel at Mobile in the capacity of Fourth Assistant Engineer since a replacement Second Assistant Engineer had been ordered before Appellant reached the ship at Mobile.

Prior to 22 September 1956, several incidents had caused animosity to develop between Appellant and fireman-watertender Huller although they were usually on different watches. On 22 September, regular sea watches were set while the ship was anchored off St. Jean-de-Luz, France, discharging cargo. Huller was standing his own 1600 to 2000 watch for another fireman. Appellant returned from shore leave and relieved the Third Assistant Engineer at 1800. Appellant was in a somewhat intoxicated condition. At 2000, oiler Eickmeier came on watch. All three men were scheduled to be on watch until 2400.

Both Huller and the oiler noticed that the Appellant appeared to be intoxicated. About 2030, Appellant told the oiler to go topside because there was no further work for him to do while the ship was at anchor. The only two men remaining in the engine spaces were Appellant and Huller.

At approximately 2130, Huller was standing on the floor plates by the boilers. Appellant was on the grating of the next level above which constituted the engine operating platform and was in the same watertight compartment with the boilers. Appellant was about 10 to 12 feet above Huller. Appellant shouted to Huller and motioned to him to come up the ladder to the operating platform. As Huller approached the top of the 45-degree angle ladder, Appellant slashed Huller's throat with a 3-inch blade pocketknife held in the Appellant's right hand. Huller backed down the ladder, departed by another exit and met the Master on the main deck. Huller was given first aid treatment to stanch the wound before he was rushed to a hospital ashore where seven stitches were taken to close the wound. Huller completed the voyage but was off duty for several days as a result of this injury.

Appellant left the engine room shortly after he had cut Huller. The Master saw Appellant and ordered him to his room because of his intoxicated condition. Appellant went to his room and drank most of the night. Another engineering officer completed Appellant's watch. Appellant failed to stand his 8-12 watch the next morning due to his continued intoxication.

Appellant's prior record consists of an admonition in 1944 for intoxication.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends only that the findings of the Examiner are against the weight of the evidence and the order is excessive.

APPEARANCE: Lee Pressman, Esquire, of New York city, by Lester E. Fetell, of Counsel.

OPINION

This case has been reviewed on the basis of Appellant's bare contentions that the findings are contrary to the weight of the evidence and the order is extreme. A memorandum brief in support of these propositions was not submitted.

A minute re-examination of the record is not required where the grounds for appeal are blanket in character; review of the decision should be limited to specific exceptions in the appeal where no clear error appears. Attorney General's Manual on the Administrative Procedure Act (1947), page 84, note 5. Commandant's Appeal Nos. 939, 940. In view of the blanket nature of this appeal and in the absence of clear error, it would be sufficient merely to state that the findings of the Examiner are supported by substantial evidence contained in the record and that the offense found proved justify the order of revocation. However, a few points will be mentioned briefly.

Concerning Appellant's failure to join his ship, it is believed that Appellant failed to take all reasonable steps to ascertain the time of departure even though he was misled by the words of another engineering officer. It was Appellant's duty, particularly because of his responsibilities as a ship's officer, to have been on board at the time indicated by the sailing board when he left the ship or to have verified any reported change in the sailing time.

With respect to the most serious offense, cutting Huller's throat with a knife, it is noted that the Examiner specifically rejected Appellant's version he acted in self-defense and accepted Huller's much more plausible story that he was slashed by Appellant without warning. Prior provocation by Huller on other occasions cannot in any way justify Appellant's conduct at the time he injured Huller. Hence, there is no reason to reverse the Examiner's finding pertaining to this specification.

Appellant admitted that he left his watch station in the engine room after wounding Huller and that Appellant was intoxicated on the following morning. These also were serious offenses especially when committed by one of the ship's officers.

Because of these offenses, it is felt that Appellant is not a fit person to serve on United States merchant vessels in any capacity.

ORDER

The order of the Examiner dated at New York, New York, on 7 November 1956, is ~~REVERSED~~ **FIRMED**.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 4th day of February, 1958.